



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

November 25, 2003

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND VIA FACSIMILE

Dennis E. Breitzman
Area Manager
Bureau of Reclamation
Dakotas Area Office
P.O. Box 1017
Bismarck, ND 58501

RE: Emergency Administrative
Order under section 1431 SDWA
Docket No. **SDWA-08-2002-0006**
Ft. Yates, PWS ID # 3890007

Dear Mr. Breitzman:

Enclosed is an Emergency Administrative Order ("Order") issued under section 1431 of the Safe Drinking Water Act (SDWA), 40 U.S.C. § 300i. In its current state, the water supplied by the Ft. Yates Water System ("System") may present an imminent and substantial endangerment to the health of persons. The Order is based on a loss of pressure in the distribution system, which can cause a net movement of water from outside the pipe to the inside through cracks, breaks, or joints in the distribution system that are common in all water systems. Such a system failure may carry with it a high potential that fecal contamination or other disease causing organisms could enter the distribution system.

The enclosed Order sets forth the actions that you must take to ensure that the people served by the water supply are provided with safe drinking water. You must immediately take the required actions. Penalties for failing to comply are set forth in the Order. The Order requires that the Bureau of Reclamation ("BOR") conduct the following activities: (1) within 24 hours, provide a written intent to EPA to comply with the EAO; (2) provide alternative water to all users of the system; (3) submit and implement a plan to regain and maintain pressure in the water distribution system; (4) conduct increased monitoring for total



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coliform bacteria; and (5) provide public notice within 24 hours.

EPA is committed to working with you to ensure the safety of Ft. Yates' public water supply. If your staff has questions specific to the elements of the Order, the most knowledgeable people regarding these issues are Melanie Wasco, Environmental Protection Specialist, who can be reached at (800) 227-8917 x 6540, or Michelle Jalazo, Enforcement Attorney, who can be reached at (800) 227-8917 X 6921.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

cc:

Charles W. Murphy, Chairman
Standing Rock Sioux Tribe

Bob Buffalo Boy, Environmental Department Director
Standing Rock Sioux Tribe

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)	
)	
Bureau of Reclamation)	
Dakotas Area Office)	
P.O. Box 1017)	
Bismarck, ND 58501)	
)	
Respondent)	
)	
[Ft Yates Water System])	
)	EMERGENCY
)	ADMINISTRATIVE
)	ORDER
)	
)	
PWS ID #: 3890007)	
)	
Proceedings under section 1414(g))	
of the Safe Drinking Water Act,)	Docket No. SDWA-08-2004-0006
42 U.S.C. § 300g-3(g))	
)	

STATUTORY AUTHORITY

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by section 1431 of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300i, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

JURISDICTION

1. EPA has jurisdiction to issue emergency orders pursuant to section 1431, 42 U.S.C. § 300i.

2. EPA has primary enforcement responsibility for the Act in Indian country because the Standing Rock Sioux Tribe does not have primary enforcement authority for public water systems.

FINDINGS

1. The Bureau of Reclamation ("Respondent") is a Federal agency, and is therefore a "person" within the meaning of section 1401(12) of the Act, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.
2. Respondent owns and/or operates the Ft. Yates Water System (the "System"), located on the Standing Rock Reservation, Ft. Yates, North Dakota for the provision to the public of piped water for human consumption.
3. The Ft. Yates Water System has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents and is therefore a "public water system" within the meaning of section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of section 1401(5) of the Act, 42 U.S.C.

§ 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. part 141.

5. According to a June 10, 2003, sanitary survey conducted by an agent for EPA, Respondent operates a system that is supplied solely by a surface water source: Lake Oahe. Operating since 1967, the system serves approximately 3,408 residents annually through 852 service connections.
6. EPA has determined that conditions exist at Respondent's public water system that may present an imminent and substantial endangerment to the health of persons. Such conditions include a loss of pressure in the distribution system, which may cause a net movement of water from outside the pipe to the inside through cracks, breaks, or joints in the distribution system that are common in all water systems. Backsiphonage is also a condition resulting from low or no pressure. Such system failures carry a high potential that fecal contamination or other disease causing organisms could enter the distribution system.
7. This Order and the requirements set forth herein are

necessary to ensure adequate protection of public health based on EPA's primary enforcement responsibility for the Act in Indian country.

8. Prior to issuing this Order, EPA consulted with Tribal, State and local authorities to confirm the information on which this Order is based and to ascertain the actions which such authorities are taking.
9. Notwithstanding the State, Tribal and local authorities' initial efforts, they cannot act to protect the health of the persons served by the System because they are not authorized to do so under the Act.

EMERGENCY ADMINISTRATIVE ORDER

1. Within 24 hours of receipt of this Order, Respondent shall notify EPA in writing of its intention to comply with the terms of this Order. The written response shall include a general plan for compliance with each of the elements of this Order.
2. Upon the effective date of this Order, Respondent shall notify all water users of Respondent's Water System that an alternative potable water supply is available. The alternative water supply shall be from a licensed water distributor, and must be made available at no cost as needed for drinking and cooking until

Respondent receives written notification from EPA that alternative water is no longer necessary. Respondent shall provide the alternative water at a central location that is accessible to all persons served by the water system. Respondent shall provide a sufficient quantity of water for reasonable domestic uses, at a minimum, two liters daily per person served by the water system.

3. As an interim measure, alternative pumps shall remain in use for the purposes of providing an adequate water source until sufficient flow is returned to the source water intake and EPA sends written notification to discontinue the use of the alternative pumps.
4. Respondent shall monitor the pressure in the distribution system daily and report the results to EPA monthly. Additionally, any time the System drops below 25 pounds per square inch ("psi"), Respondent shall immediately notify EPA and issue public notice as set forth in paragraph 14.
5. Within 15 days of the effective date of this Order, Respondent shall provide a plan to EPA identifying the cause of the low water pressure and the corrective measures Respondent will implement now and in the

future to avoid loss of water pressure and restore sufficient pressure (a minimum of 25 psi) to the distribution system. The plan shall include milestone dates and a final compliance date.

6. Upon EPA's written approval of Respondent's plan to restore and maintain sufficient pressure (a minimum of 25 psi), Respondent shall conduct all corrective action to restore the treatment plant to service. The plan and its schedule will be incorporated into this Order upon written approval by EPA.
7. Prior to the treatment plant being restored to service, Respondent shall clean and flush the system including disinfection of the distribution system and any storage tanks that are part of the system.
8. Respondent shall maintain a detectable disinfectant residual as measured at the far ends of the distribution system. Respondent shall monitor the disinfectant residual daily and report those results to EPA no later than the 10th of the month, with the first report to be submitted to EPA no later than December 10, 2003.
9. Once the pressure of 25 psi is regained and the

treatment plant is restored to service, Respondent shall collect consecutive daily special purpose total coliform samples of the treated water to determine compliance with the maximum contaminant level ("MCL") as set forth in 40 C.F.R. § 141.63. Respondent shall continue daily total coliform monitoring until receiving written notice from EPA to discontinue daily sampling. Respondent shall report daily total coliform sampling results to EPA by telephone immediately upon receiving the laboratory results.

10. After Respondent collects four consecutive daily total coliform samples that are negative and receives written notification from EPA to discontinue daily total coliform sampling, Respondent shall conduct weekly bacteriological sampling to determine compliance with the MCLs for total coliform bacteria as stated in 40 C.F.R. § 141.63. Respondent shall report weekly total coliform sampling results to EPA by telephone immediately upon receiving the laboratory results.
11. Respondent shall continue weekly bacteriological monitoring until Respondent (a) collects four consecutive weekly total coliform samples which are total coliform negative and (b) receives notification

from EPA to discontinue weekly bacteriological sampling. Respondent shall thereafter resume monthly total coliform sampling as required by 40 C.F.R.

§ 141.21 to determine compliance with the MCLs for total coliform bacteria as stated in 40 C.F.R.

§ 141.63. Respondent shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R.

§ 141.31(a).

12. Respondent shall collect all total coliform sampling at sites which are representative of water throughout the distribution system according to the written sample siting plan Respondent previously submitted to EPA pursuant to 40 C.F.R. § 141.21(a).

13. If any one of the sample results are total coliform-positive, Respondent shall conduct repeat sampling as required by 40 C.F.R. § 141.21(b), which requires public water systems that collect five or fewer total coliform samples to collect a minimum of four repeat samples within 24 hours of being notified of the total coliform-positive sample. Furthermore, Respondent shall comply with the requirements of 40 C.F.R.

§ 141.21(b)(5), which requires public water systems

that collect five or fewer total coliform samples to collect a total of 5 routine total coliform samples the month following a total coliform-positive sample result.

14. Notwithstanding the boil water advisory already distributed by the Standing Rock Sioux Tribe (enclosed with this Order), Respondent shall provide public notice in the affected area as set forth in this Order. No later than 24 hours after the date of this Emergency Administrative Order, Respondent shall provide a notice to the public of the conditions which resulted in a potential threat to public health. This public notice shall be posted in conspicuous locations throughout the area served by the water system and hand delivered to persons served by the water system, including but not limited to the hospital, casino and schools. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future National Primary Drinking Water Regulations ("NPDWRs") violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d). The public notice

shall include the following information:

a. All requirements as specified in 40 C.F.R.

§ 141.205 including:

- (1) A description of the violation, including the emergency situation and potential contaminants of concern, and (as applicable) the contaminant level;
- (2) When the violation or situation occurred;
- (3) Any potential adverse health effects from the violation or situation (see section b. below);
- (4) The population at risk, including subpopulations particularly vulnerable if exposed to the contaminant in their drinking water;
- (5) Whether alternative water supplies should be used (see section b. below);
- (6) What actions consumers should take, including when they should seek medical help, if known (see section b. below);
- (7) What the system is doing to correct the violation or situation;
- (8) When the water system expects to return to

compliance or resolve the situation;

(9) The name, business address, and phone number of the water system owner, operator, or designee of the public water system as a source of additional information concerning the notice; and

(10) A statement to encourage the notice recipients to distribute the public notice to other persons served.

b. Mandatory health effects language as specified in 40 C.F.R. § 141.205(d)(1), Appendix B to subpart Q of part 141. This language is as follows:

Ft. Yates Water System experienced a loss of pressure in the distribution system, which can cause a net movement of water from outside the pipe to the inside through cracks, breaks, or joints in the distribution system that are common in all water systems. Such a system failure carries with it a high potential that fecal contamination or other disease causing organisms could enter the distribution system.

Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Fecal coliforms and E. Coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause

short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, and people with severely compromised immune systems.

UNTIL FURTHER NOTIFIED, ALL WATER USED FOR DRINKING, BRUSHING TEETH, COOKING, MAKING ICE, WASHING DISHES, OR USED FOR HUMAN CONSUMPTION, ETC., SHALL BE BOILED FOR AT LEAST ONE (1) MINUTE, AT A ROLLING BOIL, BEFORE USE, ALL STORED WATER, DRINK OR ICE MADE RECENTLY FROM THIS SUPPLY SHALL BE DISCARDED.

15. Respondent shall continue the public notice as set forth in paragraph 14 above until EPA Region 8 provides written notification to discontinue public notice.
16. All reports and notifications herein required shall be submitted to:

Melanie Wasco, 8ENF-W
US Environmental Protection Agency
999 18th Street, Suite 300
Denver, Colorado 80202-2466
Telephone (800)227-8917 X 6540 or (303) 312-6540

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.

2. Violation of any term of this Order instituted under section 1431(a) of the Act, 42 U.S.C. § 300i(a), may subject the Respondent to a civil penalty not to exceed \$15,000 for each day in which such violation occurs or failure to comply continues, assessed by an appropriate U.S. District Court under section 1431(b) of the Act, 42 U.S.C. § 300i(b).
3. Violation of any requirement of the SDWA or its implementing regulations instituted under section 1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance.

Issued this 25TH day of November, 2003.

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON
NOVEMBER 25, 2003.**